

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Richard Zeitlin, *et al.*,

Plaintiffs,

v.

Bank of America, N.A.,

Defendant.

Case No. 2:18-cv-01919-RFB-BNW

ORDER re ECF NO. 247 & 248

Before the Court are Defendant Bank of America, N.A.’s two unopposed Motions to Seal at ECF Nos. 247 and 248.

“It is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978). As a result, if a party seeks to seal judicial records attached to a motion that is “more than tangentially related to the merits of a case[.]” they must provide “compelling reasons.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016); *see also Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). But if a party seeks to seal judicial records attached to a motion that is “unrelated, or only tangentially related, to the underlying cause of action[.]” they must only show good cause. *Kamakana*, 447 F.3d at 1179–80 (internal quotation marks and citations omitted).

Here, Defendant—in its first motion—seeks to maintain under seal Exhibits 8, 14, 19, 19–36, and 41–46 attached to Plaintiffs’ Second Motion to Compel Discovery and Motion for Sanctions (filed at ECF No. 195). ECF No. 247 at 1–2. Because the motion to compel pertains to discovery and is not related to the merits of the case, the “good cause” standard applies.

Defendant argues that these exhibits should remain under seal because they discuss its “confidential, non-public investigative processes and procedures.” *Id.* at 5. According to Defendant, public disclosure of these documents would “undermine [its] ability to detect and

1 prevent illegal activity in its accounts because it will give future wrongdoers insight into
2 [Defendant's] processes for monitoring such activity.” *Id.* at 2. It also would reveal the identities
3 of those Bank of America team members who monitor illegal activity. *Id.* at 5. The Court finds
4 that protecting Bank of America’s confidential commercial information and the identities of
5 Defendant’s fraud team constitutes good cause to maintain these exhibits under seal. *See, e.g.,*
6 *Youtoo Techs., Inc. v. Twitter, Inc.*, No. 317CV00414LRHWGC, 2017 WL 3396496, at *2 (D.
7 Nev. Aug. 7, 2017).

8 In its second Motion to Seal (at ECF No. 248), Defendant asks to maintain under seal
9 Exhibits 47, 56–65, and 67 attached to Plaintiffs’ reply in support of its Second Motion to
10 Compel and for Sanctions (filed at ECF No. 236). These exhibits also discuss Defendant’s
11 investigative policies regarding unusual or illegal activity as well as the team members who
12 monitor such activity. As such, the Court finds good cause to maintain these exhibits under seal.
13 *See Youtoo Techs, Inc.*, 2017 WL 3396496, at *2.

14 Finally, Defendant argues in conclusory fashion that the Motions to Seal and
15 accompanying declarations should be sealed. ECF No. 247 at 3; ECF No. 248 at 3. Defendant
16 fails to provide sufficient reasons explaining why good cause exists to seal these documents.
17 Consequently, the Motions to Seal (filed at ECF Nos. 247 and 248) and Jean Miller’s declarations
18 (filed at ECF Nos. 247-1 and 248-1) will be unsealed 30 days from the issuance of this order,
19 absent subsequent briefing by Defendant.


20 Accordingly, **IT IS ORDERED** that Defendant Bank of America, N.A.’s motions to seal
21 at ECF Nos. 247 and 248 are GRANTED IN PART and DENIED IN PART.

22 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to maintain
23 Exhibits 8, 14, 19, 19–36, and 41–46 attached to ECF No. 195 under seal.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court is kindly directed to maintain
25 Exhibits 47, 56–65, and 67 attached to ECF No. 236 under seal.

26 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to maintain ECF
27 Nos. 247 and 248 under seal for 30 days from the issuance of this order.

DATED: July 18, 2022.


BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE